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SUMMARY RECORD OF THE 6th MEETING

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on Thursday, 21 March 1996, at 10 a.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

CONTENTS

STATEMENT BY THE MINISTER OF JUSTICE OF PERU

STATEMENT BY THE MINISTER OF JUSTICE OF UKRAINE

STATEMENT BY THE SECRETARY-GENERAL FOR FOREIGN AFFAIRS OF AUSTRIA

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES,
INCLUDING PALESTINE (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES
UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued)

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GE.96-11795 (E)

The meeting was called to order at 10.10 a.m.

STATEMENT BY THE MINISTER OF JUSTICE OF PERU

1. Mr. HERMOZA-MOYA (Peru) said that, as it approached the end of a century marked by tumultuous changes, the international community was aware of the importance of guaranteeing respect for human rights in all spheres. His country had assumed fully its responsibilities in that regard and was working, at both the structural and institutional levels, to consolidate the progress already achieved and to strengthen the promotion and protection of human rights. It was, at the same time, endeavouring to stabilize the economy and continue the process of national reconciliation. With increased stability, it was able to turn its attention to other urgent social problems.
2. The pacification process had, in addition to the inevitable repressive measures, given rise to a series of measures in the economic, political and legal spheres. Two basic laws had been promulgated: the law of repentance, under which pardons had been granted to more than 5,000 convicted terrorists, and the amnesty law. That pacification process should not be viewed as a form of impunity. His Government was aware that its anti-terrorist and pro-democracy policies must be based on the rule of law, and that all illegal acts were subject to penalty. In fact, the conduct of many army officers had been punished. It was also reviewing a number of cases in which citizens might have been unjustly convicted.
3. While great progress had been made in his country towards eliminating terrorism, the problem still existed. In response to the recent assassination by the Sendero Luminoso of the valiant popular leader Pascuala Rosado, the Government had extended the application of the law regarding "faceless" judges until October 1996.
4. Moving away from the legal framework which had been necessary during the period of national emergency, his Government was enacting new laws which would help to ensure full respect for human rights and individual dignity, the supreme aim of State and society. To that end, a special commission of Congress would be nominating candidates for the bench of the Constitutional Court and for the office of Ombudsman, for which elections would be held in the near future.
5. Education was crucial to ensuring respect for human rights. As part of the United Nations Decade for Human Rights Education, his Government was carrying out a project designed to train secondary school teachers in human rights education. Human rights training courses were also being provided for the police and the military. His Government had requested the assistance of the Centre for Human Rights for those efforts.
6. The interdependence of democracy, development and human rights was a basic principle, especially for countries, like his own, with structural problems. He was proud to note that, since 1980, Peru had held four presidential elections, six municipal elections, five legislative elections and a constitutional referendum, all of which had been conducted in a

transparent way. His Government was committed to creating the conditions in which democracy could flourish and become a reality for each and every citizen.

7. Development was a central concern of his Government, which was launching a full-scale campaign against poverty. Of the current national budget, 40 per cent had been earmarked for social spending, including education, health, employment and basic infrastructural services.

8. His delegation wished to stress the importance of the right to development and would support any draft resolution of the Commission on the subject. If the problem of human rights could be a threat to international security, it was not unconnected with a structural problem of the developing countries which required the assistance of the international community. His Government had long stressed that civil and political rights and economic, social and cultural rights merited equal attention, with due regard for the basic principles of universality, impartiality and non-selectivity.

9. Women accounted for somewhat more than half the population of Peru and there was increasing recognition that women, who had played an important role during the crisis period, had much to contribute to promoting social development and national reconciliation. Women could be influential in one area in particular: most of the families which had been displaced as a result of terrorism were headed by females. His Government was currently implementing a national programme for the advancement of women.

10. The Convention on the Rights of the Child, ratified by his country in 1990, and the Children and Youth Code, in force since 1993, were the basic legal instruments used by his Government to protect children and promote their rights. It had established a division for the protection of children and adolescents and intended to set up a larger institutional structure. It endorsed the efforts of the working groups on children in armed conflict and on child prostitution and child pornography.

11. In 1995, Peru had been visited by the Representative of the Secretary-General on internally displaced persons. Terrorism had caused the exodus of many rural families to urban centres, giving rise to widespread changes in social and institutional structures. Between 1980 and 1992, approximately 600,000 persons had been displaced. Thus far, the organized return of more than 25,000 families had been carried out by the Government, with the welcome cooperation of various international organizations. Another 135,000 individuals had returned of their own accord. Nevertheless, the problem persisted and was still a potential threat to international security.

12. The Constitution of Peru recognized the legal existence of indigenous populations together with various rights including the right to a cultural and ethnic identity and the right to make autonomous administrative and economic decisions. Leaders of indigenous and peasant communities had the legal right to exercise judicial functions on their territory in accordance with customary law. Peru had the greatest cultural diversity in Latin America. His Government was working with representatives of the indigenous populations to collect the wealth of information existing on the subject and propose actions

to promote the welfare of such populations. It was also participating actively in the various international forums and working groups on the subject.

13. The international community needed to adopt a realistic and practicable declaration on indigenous people, which would be acceptable to Governments and indigenous populations alike and would lead to practical solutions. To that end, the national committees established as part of the International Decade of the World's Indigenous People should, in cooperation with Governments, adopt some specific measures to that end. It would also be useful if the agenda of the Commission were to include a separate item entitled "indigenous matters".

14. The question of human rights required new and innovative approaches which would lead to concrete results. Rhetoric and demagoguery must be left aside. The keyword must be "cooperation" rather than "inquisition". The High Commissioner for Human Rights and the Centre for Human Rights had important roles to play in such universal cooperation. All Governments should comply with their international treaty and reporting obligations. His own Government was committed to such action as demonstrated by, inter alia, its cooperation with the various working groups, special rapporteurs and representatives of the United Nations system.

STATEMENT BY THE MINISTER OF JUSTICE OF UKRAINE

15. Mr. HOLOVATY (Ukraine) said that the rebirth of the independent Ukrainian State was generally acknowledged as one of the key factors ensuring stability in Europe. His country's new role stemmed from several crucial factors in addition to its size and population, namely, that it was building its statehood peacefully, was endeavouring to achieve the status of a non-nuclear and non-aligned State; and was introducing national legislation aimed at building a democratic civil society and promoting human rights and fundamental freedoms.

16. Following its admission to the Council of Europe, Ukraine had agreed to adopt, within one year of its accession, a new constitution, a new civil code and civil procedural code, and a new criminal code and criminal procedural code. It had also agreed to ratify the European Convention on Human Rights and the relevant protocols; to reform the procuracy, judiciary and penitentiary system and implement measures to resolve disputes among conflicting churches; to sign within one year and to ratify within three years from the time of accession, Protocol No. 6 of the European Convention on Human Rights on the abolition of the death penalty in time of peace and, with immediate effect from the day of accession, to introduce a moratorium on executions.

17. His own Ministry was responsible for carrying out those tasks, had prepared a conceptual document defining State policy for the protection of human rights and was engaged in the preparatory work for the signature and ratification of a number of European conventions. An intergovernmental commission had been established to draft proposals aimed at introducing the

legal norms and standards of the Council of Europe into Ukrainian legislation and an expert group had been formed to prepare recommendations with regard to the adoption of legislation to protect the rights of indigenous people in the country.

18. In contrast to the legislative system inherited from the former Soviet Union, a State based on the rule of law and democracy, which protected and ensured the human rights and fundamental freedoms of every citizen, was thus being built in his country. At the same time, his Government was fully aware that the process of forming a civil society required simultaneous efforts by State institutions and by society itself through the increased involvement of citizens in the process and in the defence of their rights. Ukraine's State policy in the sphere of the protection of human rights was strictly in line with recognized international principles, while the specific features of the country's historical, cultural and economic development were also taken into account.

19. Policies in the sphere of inter-ethnic relations entailed elimination of the remaining consequences of the previous Soviet policy of forcible assimilation, the strengthening of Ukrainian statehood and national identity, the protection of equal rights for all citizens, the provision of State assistance for the return of members of the ethnic groups forcibly deported by the former totalitarian regime, and inter-State cooperation to secure the rights of Ukrainians living abroad. While guaranteeing the rights of persons belonging to national minorities and ensuring the freedom of development for all national cultures as well as the return of deportees, it was stressed that each ethnic group residing in Ukraine must respect the rights of other ethnic communities and be aware of its responsibility for the stability and territorial integrity of the State.

20. While advocating respect for human rights in the domain of inter-ethnic relations and assuming the relevant international commitments, his Government strongly rejected any arbitrary interpretation of the right to self-determination which ignored other generally recognized principles and standards of international law. Legislation in that field should be further developed to assist the world community to combat separatism, a task in which the Commission had an active role to play.

21. The tragic events in the territory of the former Yugoslavia, like those in Rwanda and Burundi, evidenced the critical need to pursue preventive policies with respect to inter-ethnic problems. The United Nations should devote more attention to monitoring to consultations and to providing advisory, technical, financial and economic support to individual countries in that area, as well as to cooperating with regional organizations to that end.

22. On the eve of the twenty-first century, joint international efforts were required to cope with the many challenges of ecological disasters, terrorism, regional conflicts and economic and social crises, in which respect the role of the United Nations was vital. Ukraine was prepared to play its part in dealing with those problems.

STATEMENT BY THE SECRETARY-GENERAL FOR FOREIGN AFFAIRS OF AUSTRIA

23. Mr. ROHAN (Austria) said that, despite the Commission's impressive record in the field of standard-setting, monitoring and reporting and the promotion of human rights, and the admirable work of the High Commissioner and Centre for Human Rights, human rights were still being violated daily in all parts of the world. A major reason for that situation was the lack of political will on the part of the Governments fully to implement their human rights obligations and put an end to human rights violations. Living up to those obligations was, however, indispensable if national and international systems were to function well. He thus urged all Governments to observe all their obligations for the protection and promotion of human rights and to cooperate fully with the international community's control mechanisms, such as the special rapporteurs, working groups and experts, who must be guaranteed independent and unfettered mandates if they were to carry out their tasks. In that regard, he expected clear and unequivocal decisions from the current session of the Commission.

24. The approach adopted by the Vienna Declaration and Programme of Action of the intrinsic relationship between human rights, development and democracy, as well as peace and security, had been further strengthened at subsequent United Nations world conferences and had resulted in the widely shared conviction that human rights could not be divorced from efforts to achieve international peace and security and sustainable development. In that connection, he expressed great appreciation of the crucial role played by the High Commissioner for Human Rights with respect to the integration of human rights into the work of the international system and urged increased support for the High Commissioner's work, especially in the form of additional resources from the United Nations budget.

25. Such an integrated approach required full utilization of the whole range of measures available to the international community from the prevention of human rights violations - through the development of effective early-warning and early-reaction systems - to monitoring, reporting and responding effectively to violations; and providing adequate assistance for building efficient human rights infrastructures at the national and local levels.

26. The growing number of peace-keeping and peacemaking missions undertaken by the United Nations or regional organizations would put human rights diplomacy to a severe test, and the full and systematic integration of human rights into the activities of those missions was crucial to their long-term success.

27. His Government had organized recently a round-table conference on human rights in Bosnia and Herzegovina because of its firm conviction that progress in the field of human rights constituted a precondition for the full implementation of the Dayton Peace Agreement. The participants had taken the view that it was only through the intense efforts of all actors in Bosnia and Herzegovina itself, combined with assistance from the international community, that the human rights violations committed during the conflict in the former Yugoslavia would be overcome. The clear commitment by the parties to respect human rights, together with appropriate action on the crimes of the past, constituted the foundation for international assistance and support.

28. In that regard, the continued and close involvement of the Commission was of considerable importance. The establishment of a Human Rights Coordination Centre at Sarajevo should be a decisive step towards ensuring close coordination of all organizations and agencies involved, one of the priorities identified at the round-table conference which had come up with a range of detailed and concrete recommendations and conclusions that should allow all participants to ensure the appropriate integration of human rights into the overall effort of establishing durable peace, a climate of trust and confidence and, eventually, a new human rights culture in Bosnia and Herzegovina and in the region as a whole.

29. The protection of human rights was a cornerstone of his Government's foreign policy. Its long-standing commitment to human rights was reflected not only in its active contributions to the work of international organizations but also in its continuous efforts to protect the human rights of all people in Austria as well. In that connection, Austria's domestic situation was open to scrutiny by international and non-governmental organizations, the United Nations system and its treaty bodies and the system elaborated within the framework of the Council of Europe. Moreover, membership of the European Union added a new dimension to the country's human rights-related activities.

30. His delegation was particularly interested in ensuring that thorough preparations were made for the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights. On that occasion, a five-year review of the implementation of the Vienna Declaration and Programme of Action would have to be undertaken and his delegation intended to submit a draft resolution on the subject.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (E/CN.4/1996/18-21, 108 and 120)
(continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7)
(E/CN.4/1996/26 and 27) (continued)

31. Mrs. FERRARO (United States of America) said that, in the Middle East, hope and despair still battled with each other daily and the new world of peace and reconciliation was being tested yet again, although the seemingly impossible had come true and peace between Arabs and Israelis had blossomed over the past four years.

32. Joining Egypt, the Palestinians and Jordan had signed peace agreements with Israel, leading to the establishment of a Palestinian self-government authority in the West Bank and the Gaza Strip for a transitional period not exceeding five years and for a permanent settlement based upon the relevant Security Council resolutions to the departure of Israeli forces from the major Palestinian cities and surrounding villages, to elections for a Palestinian Council and the head of its executive authority, to the development of an impressive array of civil and political institutions and to the development of a host of new relationships between Israel and Jordan under which vital issues

such as water usage were the subject of frequent consultations between the two countries. Many other Arab States were preparing for the rapidly evolving Middle-East regional market, which promised economic benefits to almost 100 million people.

33. Everyone was aware of the importance her country attached to the peace and reconciliation process. No nation had worked harder to help Arabs and Israelis overcome their past antipathies and to secure a just and lasting peace for all the peoples of the Middle East.

34. It had taken great courage to break the bonds of war and sever the cords of suspicion which had tied the people of the area to almost 50 years of violence, hate and retribution. Many had paid for their courage with their lives, but peace had many heroes, including both visionary leaders and ordinary people. No assassin or suicide bomber could strike it down.

35. Yet there were some persons with twisted minds who were determined to drive history backward, who thrived on other people's suffering and sought to revive their flagging fortunes by bombing buses and inflicting terror, all in a cause said to be higher than that of peace. That was absolute nonsense; the acts concerned were acts of desperation, arrogance and cowardice. However, the terrorists from Hamas and Islamic Jihad had misjudged their times and their own community. The people they purported to represent had put their faith in peace, not terror, and hope had brought about fundamental changes in the Middle East and greater progress towards a just peace than war could ever do.

36. It was thus no surprise that, at the Sharm-el-Sheik summit of the peacemakers, Arabs and Israelis alike had condemned the bombings in Israel as cowardly acts. The world had made it clear that the battle between Arabs and Israelis was a thing of the past. Unfortunately, those who refused to accept the course of history sought another battlefield, pitting terror against human rights and the rule of law. They would not prevail. A handful of extremists could not be allowed to scuttle the peace process. It was time for the Commission to speak out clearly, since the enemies of the Middle East peace process were the enemies of human rights.

37. In 1995, the Commission had unanimously approved a positive Middle East resolution. Her delegation was sponsoring another such resolution in 1996. By approving it unanimously, the Commission would send the important message that it recognized the direct relationship between the peace process and the improvement of human rights in Gaza and the West Bank.

38. Her delegation welcomed the Special Rapporteur's proposal that his mandate be reviewed and revised. It also believed that the time had come to end the unhelpful rhetoric that had all too often characterized the Commission in the past. In fact, agenda item 4 had outlived its usefulness and should be discontinued; any discussion of human rights problems in the Middle East should henceforth be conducted under agenda item 10. However, since peace still had its enemies, the Commission should demonstrate that every delegation stood firmly and unequivocally on the side of peace and human rights in that area.

39. Mr. PARSHIKOV (Russian Federation) said that the hope that peace might one day be established in the Middle East had assumed concrete form as the result of the agreements between Israel and the Palestine Liberation Organization (PLO) and the elections in the West Bank and Gaza. That peace was, however, being threatened by a wave of terrorism and the international community must not allow itself to be dictated to by small groups of extremist killers. Terrorist activities everywhere were directed against peace, concord and democracy and all countries must unite their efforts to eradicate such threats. In that connection, his delegation wished to pay tribute to the former Prime Minister of Israel, Isaac Rabin, who had sacrificed his life in the cause of peace. The Russian Federation resolutely condemned the monstrous terrorist acts in Israel, which had become the major obstacle to peace in the Middle East.

40. In order to bring about peace, several basic conditions were needed. First, Israel must be reassured that its efforts to establish peace enjoyed both the moral and practical support of the international community and that the only road ahead was to continue its search for a peaceful settlement. Secondly, maximum support must be given to the Palestinian leadership, under Yasser Arafat, which categorically rejected terrorism. Thirdly, the trend towards a peaceful settlement between Israel and Syria should be encouraged. Fourthly, the peace talks must be combined with an uncompromising fight against terrorism.

41. To assist the Middle East peace process, the Commission must abandon old stereotypes and adopt resolutions and decisions aimed at promoting compromise and dialogue rather than confrontation. In that connection, his delegation hoped that a suitable draft resolution on the Middle East peace process would be adopted by consensus.

42. People in his country were well aware of the suffering caused by terrorism as a result of the activities of the groups of bandits operating there and in some other countries of the Commonwealth of Independent States. Whole towns were being terrorized by the criminal forces of Dudaev and acts of banditry were accompanied by brigandage, violence and undisguised looting. The organizers of terrorist acts against the peaceful population sometimes called themselves "freedom fighters" but they brought only grief, death and enslavement by fear. Opposition to terrorism should be universal, and double standards were inadmissible. A common evil could be overcome only by joint efforts.

43. There was perhaps no topic more complicated and controversial than the right of peoples to self-determination. One thing, however, was clear: in the current era of instability, change and conflict, an absolute right to self-determination, in isolation from other rights and freedoms, or the emasculation of its essence to the point of primitive separatism were inadmissible. Otherwise the world could expect not universal peace, security and economic well-being but an endless and bloody chaos. Consequently, the principle that the right to self-determination should not be interpreted as allowing or encouraging any activities violating or undermining the territorial integrity or political unity of independent sovereign States was of great significance.

44. The ever-increasing trampling of basic rights and freedoms in the name of self-determination was a source of particular concern. Once again, statements such as "the end justifies the means" or "the interest of the nation is paramount" were being heard. As a result, many thousands of persons were being turned into pariahs without rights. It was doubtful whether that kind of "self-determination" could be called a right.

45. The right to self-determination was a right of peoples. The encroachment upon that right by individuals or small groups was thus inadmissible since it led to autocracy, arbitrariness and lawlessness. As a result, the concept of self-determination was being exploited for the purposes of aggressive separatism, which invariably ended in tragedy, the denial of rights and freedoms, death and suffering. Separatism was unacceptable not only in the context of protecting the territorial integrity of States but also from the standpoint of promoting human rights and freedoms.

46. Federalism was a very important precondition for the free development of a multinational society, as were the separation of powers, the responsibility of the Government to society, and regular, free and democratic elections. The Russian Federation had embarked upon the creation of a genuinely federal State to reflect the rich diversity of its cultures and conditions while preserving its territorial unity. Federal structures had already been put into place by the 1993 Constitution. The next step was to develop local self-government on a sound financial basis.

47. Self-determination was inseparable from the right of every citizen to take part in genuine, periodic and fair elections. The people of the Russian Federation would shortly be doing so when they elected the country's next President. Self-determination entailed the acceptance of the democratic process, the defence and encouragement of human rights, the supremacy of law and freedom of expression and the rejection of violence, separatism and terrorism.

48. Certain previous speakers had made critical comments regarding the events in Chechnya. While his delegation was not afraid to discuss the human rights situation in Chechnya, it would not do so in the context of the right to self-determination. The Russian Federation had been, was, and would continue to be united, so any such discussion would be unproductive.

49. Mr. KHURSHID (India) said that self-determination had become one of the most politicized concepts on the Commission's agenda and the time had come to hold a searching and informed debate on the subject. Colonialism had been rolled back in the 1950s and 1960s, most peoples had achieved independence, and the questions that currently arose were whether the concept of self-determination was still relevant, what the residual attributes of the right were within sovereign nations, particularly with regard to the rights of minorities, and what steps were essential to ensure the enjoyment of all human rights by all segments of the population in pluralistic and multicultural societies.

50. Comprehensive studies of those issues had been made by Mr. Asbjørn Eide, Chairman of the Sub-Commission's Working Group on Minorities, who had concluded that the right to self-determination in the case of a sovereign

State implied the right of the aggregate collectivity of the several ethnic, religious and linguistic groups composing its population to govern themselves. In that context, the right was not a matter of achieving statehood, which already existed, and did not represent any challenge to the territorial integrity of the State. It did, however, involve the right of all the people to govern themselves through a representative Government, freely elected through the participation of all groups in society.

51. Mr. Eide's observations had been endorsed in General Recommendation XXI (48) adopted by the Committee on the Elimination of Racial Discrimination (CERD) which stated that, externally, self-determination implied that all peoples had the right to determine freely their political status and their place in the international community based upon the principle of equal rights and, internally, meant the right of all peoples to pursue freely their economic, social and cultural development without outside interference. It also involved the right of every citizen to take part in the conduct of public affairs at all levels, as a consequence of which Governments had to represent the entire population without distinction as to race, religion, colour, descent, or national or ethnic origin.

52. The right to self-determination thus clearly implied that all segments of society had the right to participate in all walks of national life and national decision-making through representative, democratic institutions. As CERD put it, Governments should be sensitive towards the rights of persons of various groups in society to lead lives of dignity, preserve their culture, share equitably in the fruits of national growth and play their part in the government of the country. Governments should also consider, within their respective constitutional frameworks, vesting persons or ethnic or linguistic groups of their citizens with the right to engage in activities particularly relevant to the preservation of their identity.

53. His Government believed that the achievement of the right to self-determination in respect of colonial or alien rule must necessarily be followed by democracy, tolerance, non-violence and respect for pluralism. Pluralistic societies could flourish only on the basis of the principle of equality. As Mr. Eide had put it, neither majority nor minorities should be entitled to assert their identity in ways which denied the possibility of others doing the same. Integration should be developed on the basis of equality and non-discrimination, with all groups contributing their own values and cultures to shape the common domain where their members interacted.

54. Unfortunately, there were still conflicts in various parts of the world, some of which had been attributed to ethnic causes without necessarily being ethnic in origin, and others to religious reasons without necessarily being based on religion. Many of them reflected situations where people perceived that their legitimate rights to develop or their cultural identity were being denied and their aspirations were not being fully met. The only viable options were dialogue and a political solution within the framework of a democratic polity.

55. Other such conflicts stemmed from external support designed to undermine the social fabric of pluralistic and multicultural States and impose external cultural hegemony or even make territorial gains. Divisions in pluralistic

States were frequently exploited by "conflict entrepreneurs", often with external support, and manifested themselves in violence, extremism, militancy and ethnic cleansing. Such "conflict entrepreneurs" must not be encouraged.

56. The politicization of the issue of self-determination and the use of the term for the advancement of political and bilateral agendas by some countries or groups of countries was deplorable and had nothing to do with the promotion of human rights in general. Some such countries openly sought territorial aggrandizement or cultural control, preached narrow and intolerant ideologies, funded religious extremism and manipulated ethnic and religious differences to provoke human rights atrocities. Still others nurtured, sustained and justified terrorism and the use of mercenaries as means of achieving their political ends. It was noteworthy that the countries in question frequently failed to extend the right concerned to their own citizens.

57. Politicization of the right to self-determination undermined the very concepts of democracy, tolerance and pluralism which were the best guarantee for the enjoyment of that right. It promoted secessionism and fragmentation, thereby jeopardizing regional and global stability, peace, security and economic well-being. Opportunistic resort to it might serve some propaganda purposes or attract media publicity, but it certainly did not promote the interests of peoples.

58. His delegation believed that the international community should continue to support the concept of the self-determination of peoples as expressed through pluralism, democracy and the enjoyment of human rights by all peoples on the basis of equality and non-discrimination. All Member States must ensure the unfettered enjoyment of those rights by their own peoples. At the same time, the misuse of self-determination for political, territorial or bilateral ends would have to be checked.

59. Mr. CABALLERO RODRIGUEZ (Cuba) said that the Commission had always recognized the inalienable rights of the Palestinian people, rejected the Israeli occupation of Arab territories and condemned the gross and flagrant violations of human rights by the occupying Power. The recent agreements between Israel and the PLO, therefore, constituted important landmarks in the overall negotiating process.

60. Nevertheless, no lasting solution had been found and tension and violence in the Middle East had increased. The tension was being aggravated by the many obstacles to the implementation of the agreements reached and by the flagrant violations of the human rights of the Arab and Palestinian populations in the occupied territories. The Israeli authorities were continuing their repressive practices, which were intensified by the sealing-off of the Gaza Strip and the West Bank.

61. Any just, lasting and overall solution of the conflict must include the total withdrawal of Israel from the occupied Arab territories. His Government hoped that peace would soon arrive in the Middle East and that a just, true and lasting solution would be found involving all States in the region and that the Palestinian people would be able to exercise its inalienable rights, including the right to its own fully independent State. The international

community should provide the financial and human resources required to solve the enormous problems that had been accumulated during the years of occupation and pillage.

62. The United Nations itself was built upon the right of every State fully to exercise its national sovereignty and the right of every people to self-determination, free from outside interference. Those principles were still in force, but concepts such as "limited sovereignty" and "the right of intervention" were currently being promulgated and his Government was deeply concerned at attempts to alter the interpretation of self-determination in ways that did not conform to the Charter, on the grounds that the concept had been superseded by the progress achieved. The struggle against colonial or foreign occupation was still valid, however, given the threat to national sovereignty by outside models that claimed to be universal archetypes. For Cuba, the challenge of preserving peace entailed respect for the territorial integrity and cultural and political diversity of nations, as well as their capacity to develop and give their peoples a decent way of life. His Government would also continue to claim the return of the United States naval base at Guantánamo and an end to the hostile policy pursued against its people for over 36 years by its powerful neighbour.

63. He commended the valuable report (E/CN.4/1996/27) by the Special Rapporteur on the use of mercenaries as a means of violating human rights and of impeding the exercise of the right of peoples to self-determination, which had shed much light on those harmful practices. The Special Rapporteur should be given an opportunity to submit further reports on the contemporary use of mercenaries, particularly in situations in which such unlawful activities were undertaken by persons acting against their own country in the service of a foreign Power.

64. Mr. SUNG (Malaysia), having commended the work of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories despite the regrettable refusal of the Israeli authorities to cooperate with him, said that he welcomed the progress made in the Middle East process and urged all the parties concerned to cultivate an attitude of tolerance, patience and moderation during what was admittedly a difficult transitional period.

65. The imposition of repressive measures and the meting out of collective punishment against Palestinians living in the occupied territories were counterproductive and unacceptable since they could not but increase tensions and frustrate the efforts of those supporting the peace process. The closure of the borders had deprived Palestinians of basic social services and was undermining an already fragile economy. Israel's continuing confiscation of Palestinian lands for the purpose of expanding Israeli settlements was also a matter of concern.

66. The peace process was the best way to guarantee peace and stability in the Middle East. In the circumstances, the Palestinians' primary concern was, of course, to ensure their own peace and security. Without security there could be no peace and without peace there could be no development. The international community must assist the Palestinians in their efforts to achieve economic, social and political well-being.

67. Mr. LEGAULT (Canada) said that, while there had been significant advances in the past year in the Middle East peace process, including the signing of the Interim Agreement on the West Bank and the Gaza Strip, the addition of nine localities to the autonomous Palestinian territories on the West Bank and the Gaza Strip, and the holding of the first free and democratic elections in Palestinian history, the recent terrorist attacks in Israel could jeopardize that patiently constructed edifice.

68. His Government had condemned those attacks and had participated in the recent summit on terrorism as a means of reaffirming its support for the peace process.

69. He welcomed the report of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories (E/CN.4/1996/18) and wholeheartedly agreed with his assertion that only the continuation of the peace process could lead to a just, comprehensive and lasting peace in the Middle East, which was a precondition for guaranteeing respect for human rights.

70. He also welcomed the cooperation extended to the Special Rapporteur by the Palestinian Authority and agreed that his mandate should explicitly reflect the need for cooperation with that body. Like other country-specific mandates, that of the Special Rapporteur should be subject to annual review in the light of developments and should be considered under item 10 of the Commission's agenda.

71. Israel had legitimate concerns about the security of its citizens and was justified in taking steps to combat terrorism. At the same time, such actions could not be pursued at the expense of basic human rights. His Government was monitoring closely the human rights situation in the West Bank and the Gaza Strip and while noting the efforts of the Israeli Government to ensure greater respect for human rights, wished to stress that, until a final peace was negotiated, Israel remained bound by its obligations under the Fourth Geneva Convention. The potential effects of the collective measures on the already shaky economy of the West Bank and the Gaza Strip and on public support for the peace process was a matter of concern. The international community must consider how to mitigate those effects.

72. The Palestinian Authority was currently operating in a complicated transitional context. The recent holding of genuinely democratic elections demonstrated the desire of the Palestinian people to live in a democratic society and, in that connection, his delegation strongly encouraged the development of a pluralist civil society. Nevertheless, the troubling violations of rights and freedoms there could not be overlooked. His Government was ready to provide assistance to the Palestinian Authority to facilitate the development of a society based on respect for human rights, civil liberties and the rule of law.

73. Mr. ENDO (Japan) said that the Declaration of Principles on Interim Self-Government Arrangements had led to agreements between Israel and the Palestine Liberation Organization which had enabled the Palestinians to establish their own interim self-government in the West Bank and the

Gaza Strip. His delegation looked forward to the implementation of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip.

74. The signing of a peace treaty by Israel and Jordan was also a very important achievement since it paved the way for Israel and Jordan to explore the potential for future bilateral cooperation. His Government fully supported that process and wished to pay tribute to the Governments of Jordan and Israel for their courageous efforts to establish a partnership and work together for peace. It was to be hoped that that momentum could be sustained and that progress would be made in the negotiations between Israel and Lebanon on the one hand and Israel and Syria on the other.

75. The peace process being at a critical juncture, it was most important that the efforts of all the parties concerned should be further encouraged. It was also essential to enhance mutual trust so that, despite the series of recent terrorist attacks, progress would continue to be made. His Government condemned those attacks, which had caused death and suffering to innocent citizens, in the strongest terms. Because of its deep commitment to the peace process, it called upon all the parties concerned to accelerate their efforts to establish a just, comprehensive and lasting peace in the Middle East. It had been actively involved in the peace process in the region and had, for instance, been implementing a programme of economic assistance to the Palestinian interim self-government, promoting multilateral talks on subjects such as the environment and water supply and had sent units of the Japanese Self-Defence Force to participate in peace-keeping operations in the Golan Heights.

76. Japan would continue to support and contribute to the ongoing peace process because it was vital to the further promotion and protection of human rights in the region and the creation of an environment in which all the peoples there could enjoy a decent and peaceful life.

77. Mr. PANG Sen (China) said that, since serious violations of the right to self-determination continued to occur, the consideration of that issue by the Commission had great relevance. Despite the end of the cold war, acts of aggression and interference and attempts to control others and undermine the independence, sovereignty and territorial integrity of other countries continued unabated. Indeed there was an escalation of power politics in international relations and that was the biggest threat to the realization of the right to self-determination.

78. Moreover, while the Charter of the United Nations, the Vienna Declaration and Programme of Action and a host of other instruments clearly stipulated that the right to self-determination was the right of a particular country and its people to gain independence, to decide freely upon its own political system and pursue its own economic, social and cultural development, that right had been skilfully altered and turned into a tool for interfering in the internal affairs of other countries. Thus, under the guise of the periodic holding of free elections, the United Nations was called upon to draft patterns and standards, set up mechanisms and provide assistance, the aim being to introduce a political and economic model and force other countries to imitate it.

79. Self-determination was also being abused to incite and intensify ethnic conflict with a view to dismembering sovereign States. Such activities had already caused serious disruptions in some countries and regions, aggravating domestic instability and leading to civil wars or regional conflicts that posed a serious threat to world peace and stability.

80. China, a nation with a time-honoured civilization and a rich history of discoveries and inventions, had never been an aggressor and had never established a single overseas colony. Despite endless embargoes, blockades and slander, after the setting up of the People's Republic, China had not disintegrated, declined or collapsed but had found its own model of development. However, there were still over 70 million people in the country whose living conditions were unsatisfactory.

81. The realization of the right to self-determination did not end with the overthrow of colonial rule and the achievement of political independence. It was an arduous, ongoing and lengthy process and China needed a peaceful international environment to achieve further development. It had no ambition to rule over other countries and had no foreign military bases or troops stationed on foreign soil. Yet some people deemed fit to condemn China in the name of human rights. However, China was ready to coexist with all the countries of the world and was prepared to engage in international cooperation with all countries and make its contribution towards achieving all human rights and fundamental freedoms throughout the world.

82. Mr. Chung Il PARK (Republic of Korea) said that efforts to deliver a sustained and legitimate peace to the Middle East were currently as fragile as at any moment since the signing of the historic agreement in Washington. The recent acts of terrorism had disrupted the progress marked by presidential and municipal elections in Palestine on 20 January 1996. He wished to extend the heartfelt sympathy of his country to the families of the victims and to urge that the actions of a few extremists not be allowed to plunge the region back into the bloody past. Both the residents of the region and the international community must work together to revive faith in the peace process.

83. His delegation welcomed the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1996/18), which had been prepared under difficult circumstances. He shared the concern of the Special Rapporteur that, in addressing security problems, both sides should respect human rights. Security measures that amounted to collective punishment were indeed short-sighted. The recent anti-terrorism summit in Egypt had emphasized the need to find an effective strategy to combat terror within the rule of law.

84. His delegation endorsed the Special Rapporteur's conclusion that economic development was the key to the political stability and peace which would lead to greater respect for human rights. A thriving economic region constituted a viable alternative to a region torn by violent extremism. The international community could promote such an alternative by injecting support for economic normalization.

85. His Government had participated actively in efforts to support peace and prosperity in the Middle East. It had pledged US\$ 12 million in grants

and loans to the Palestinian Authority and an additional grant totalling US\$ 3 million had recently been announced by his country's Minister for Foreign Affairs. It had also made a firm commitment to participate in the funding of a number of specific projects.

86. He hoped that, in the occupied Arab territories and Palestine, the principles of self-determination and democracy would be respected. Those ingredients, when combined with respect for the rule of law, non-violence and peace would provide a powerful tool for the strengthening of all human rights.

87. Mr. HUSSAIN (Observer for Iraq) said the right to self-determination of peoples, a collective right, was linked to the imperative under which a people must not be deprived of its means of subsistence. Yet some States turned their backs on the implementation of human rights because it was not in line with their political interests. Such States, ever since the accession to independence of a number of countries, had sought to sabotage that independence by various means, including attempts to control natural resources. Such hegemonistic behaviour had strengthened in recent years, thus further undermining the right of peoples to self-determination. His country had borne the brunt of such policies, but continued to demonstrate its good intentions by calling, unfortunately in vain, for the normalization of the situation.

88. In 1991, after the end of military operations, the United States and its allies had unilaterally taken steps to partition Iraq and undermine its national unity, imposing an aerial exclusion zone north of the thirty-sixth parallel and south of the thirty-second. The continued imposition of an economic blockade was a violation of Iraq's right to enjoy its natural resources and the prohibition of oil exports deprived its people of their means of subsistence.

89. Those actions, which ran counter to the Charter and the international human rights instruments, should be opposed by the Commission since they adversely affected the independence and territorial integrity of a nation and undermined the right of a people freely to dispose of its natural resources.

90. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that, in its capacity as administering Power of the Territory of East Timor, Portugal had consistently drawn the Commission's attention to the unjust denial by Indonesia of the right of the East Timorese people to self-determination, which had led to other violations of fundamental human rights. Such violations would inevitably continue until the military occupation of the Territory was brought to an end.

91. The United Nations had pursued its efforts to promote an internationally acceptable solution. East Timorese leaders would shortly be meeting in Austria under the auspices of the Secretary-General and it was to be hoped that positive suggestions and recommendations would emerge from that meeting that would assist the eighth round of talks between Indonesia and Portugal. His Government, which had put forward a proposal that would certainly help in the search for a settlement, expected the Government of Indonesia to demonstrate the vision needed to find a solution respecting the Charter of the United Nations and satisfying the aspirations of the East Timorese.

92. Mr. SELEBI (Observer for South Africa) said that his Government was greatly concerned about the employment of mercenary soldiers anywhere in the world, and especially in Africa. It did not recruit, arm or pay any soldiers of fortune and was prepared to take immediate and drastic action against any organization or person on its territory involved in actions contrary to the sovereignty of African States or the self-determination of their peoples.

93. There had, nevertheless, been reports that certain mercenary activities in Africa were planned or coordinated from South African territory by a group of organizations known as "Executive Outcomes". South African legislation criminalized many aspects of mercenary activities, but investigation was hampered by the fact that the activities mainly took place in foreign jurisdictions. The Government was working to close a loophole in the law which allowed companies such as "Executive Outcomes" the opportunity to establish offshore companies and then employ South Africans internationally and would take strong action to bring those operations to an end.

94. Mr. ASSADI (Observer for the Islamic Republic of Iran) said that the report of the Special Rapporteur (E/CN.4/1996/18), together with the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/50/463), attested to the grim reality of gross and systematic violations of the human rights of the Palestinian people. They showed, albeit in circumspect language, what occupation really meant for the subjugated populace and made it abundantly clear that Israel was utterly oblivious to the decisions and wishes of the international community. Arbitrary arrests, mass imprisonment, torture, deliberate killings, extrajudicial executions and house demolition continued to form part of official policy and practice.

95. It was clear that the human rights situation of the Palestinians had even deteriorated. Draconian measures of collective punishment made a mockery of such concepts as peace and peaceful coexistence. The continued practice of land confiscation and settlement expansion was something that even the United States found difficult to underwrite.

96. The civilized West had sacrificed the self-determination of the Palestinians to expurgate itself of its crimes against European Jews. That was the very heart of the problem. Peace could be built only on the solid foundations of justice, and the Palestinian people in its entirety - whether under occupation or in the diaspora - was the only party qualified to give the final verdict on the merits of such justice.

97. Mr. ABRAM (World Jewish Congress) said that the hopes of the peace-loving world had been raised by the Middle East peace process and fortified by the recent ground-breaking conference against terrorism held in Egypt so that there had been every reason to expect to hear a great many statements against terrorism in the Commission. Instead, there had been much criticism of Israel for its recent counter-terrorism measures. It was legitimate for States to take reasonable and proportionate measures in response to terrorism and it was regrettable that Israel should have been demonized in the Commission for such measures, particularly by some of its so-called partners in peace.

98. It was also regrettable that the suicide bombings had not been formally condemned by the Security Council, the body charged with maintaining international peace and security, although it had strongly condemned the massacre by a lone Jewish extremist of 27 Muslims at Hebron. The silence of the Observer for Palestine and of various quarters of the human rights community concerning the bombings was equally disappointing.

99. The Commission should go beyond the traditional and general condemnations of terrorism it had produced in past sessions and align itself with the sentiments expressed at the anti-terrorism summit in Egypt, thereby placing itself in step with the Secretary-General and with the peace process.

100. Mr. HALINEN (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said he welcomed the constructive, supportive and encouraging remarks made concerning his report (E/CN.1996/18), particularly the fact that many speakers agreed with him that his role and activities should be seen in the context of the peace process. Without the full cooperation of both the Government of Israel and the Palestinian Authority, the fulfilment of his task would not be possible.

101. The Centre for Human Rights had played a positive role in supporting human rights developments in the occupied territories and was preparing to launch a two-year, US\$ 1.6 million programme of technical cooperation designed to assist the Palestinian Authority and Palestinian civil society to strengthen the promotion and protection of human rights under the rule of law, activities which he strongly supported.

The meeting rose at 1 p.m.